

(90)
6-5-01
SC

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

ORIGINAL

JUN 01 2001

MARY E. DIANDREA, CLERK
Per _____
DEPUTY CLERK

:
: No. 3:00-CV-00577
:(Judge Kane)

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
MOTION FOR ENLARGEMENT OF TIME**

INTRODUCTION

This is a civil rights action brought pursuant to 42 U.S.C. § 1983 alleging claims under the First, Eighth and Fourteenth Amendment to the United States Constitution. The allegations in the complaint stem from alleged unlawful misconducts, grievances, and conditions of confinement that affected plaintiff while he was incarcerated at various state correctional institutions. The complaint also alleges that officials of the Pennsylvania Department of Corrections (“DOC”) and the Pennsylvania Board of Probation and Parole (hereinafter the “Board”) have engaged in other conduct to deny plaintiff’s constitutional rights.

Plaintiff, Charles Iseley is a pro se prisoner currently incarcerated at the State Correctional Institution at Huntingdon ("SCI-Huntingdon"). Defendants are numerous employees or former employees of the Pennsylvania Department of Corrections, who are or were employed at the State Correctional Institution at Rockview ("SCI-Rockview"), the State Correctional Institution at Mahanoy ("SCI-Mahanoy"), and officials at DOC's headquarters located in Camp Hill, Pennsylvania. Also named as defendants are employees of the Board.

On May 25, 2001, Iseley filed a Motion for Enlargement of Time in which he seeks a three month enlargement to complete discovery. In support of his motion, Iseley alleges that the defendants did not produce one page of discovery for him; that he does not have a copy of his complaint; and, that he has yet to receive any of his legal materials since his transfer from SCI- Coal Township to SCI-Huntingdon.¹ In addition, Iseley states that he wishes to file a motion to amend the complaint to delete many of the issues in his complaint, based on the fact that he cannot prove them due to his inability to receive the necessary discovery.

¹Undersigned counsel is aware that Iseley did not receive his excess property upon his arrival at SCI-Huntingdon, based upon his refusal to sign a cash slip. On April 11, 2001, undersigned counsel informed Iseley that he need to sign a cash clip. (See Exhibit "F" attached) On May 16, 2001, Superintendent Gillis instructed intake to forward eight boxes of Iseley's remaining property to be mailed to him at SCI-Huntingdon, and instructed inmate accounting to charge him the shipping costs of \$50.03 (See Exhibit "G" attached) Undersigned counsel has been informed that the boxes of Iseley's property has arrived at SCI-Huntingdon.

Discovery in this case closed on May 1, 2001. Although Iseley alleges that defendants have not provided him with "one page of discovery," he has in fact received discovery from the defendants. On July 31, 2000 defendants responded to Iseley Request for Production of Documents (see Exhibit "A" attached), on December 21, 2000 defendants responded to Iseley's Second Set of Request for Production of Documents (see Exhibit "B" attached), and on December 21, 2001, defendant Horn responded to Iseley's Interrogatories (see Exhibit "C" attached).

In their response to Iseley's requests for production of documents, defendants instructed Iseley that he may inspect and photocopy the documents upon written request to the Assistant to the Superintendent at SCI-Coal Township. Included in the documents produced for inspection were copies of Iseley's Parole Board Action Sheets known as "Green Sheets"; a copy of the complaint he filed in this case; job specifications for all of the defendants; references to pertinent sections of the Inmate Handbook; copies of numerous grievances submitted by Iseley; copies of numerous misconducts relevant to the complaint and his Prescriptive Program Plan. In addition, Iseley was afforded the opportunity to review portions of his institutional and medical file that are not considered confidential and/or privileged.

On January 23, 2001, counsel for the defendants deposed Iseley at SCI- Coal Township. During the course of the deposition, Iseley informed counsel that he was going to drop some of the claims in his complaint, pending the filing of an Amended Complaint. Iseley agreed to initial those claims and paragraphs of the complaint that he would drop. (See Exhibit "D" attached)

Subsequent to the deposition, counsel informed Iseley that documents had been available for his inspection at SCI-Coal Township, since the date of the responses and that according to the Assistant to the Superintendent, he had not requested to inspect any of the documents. Included in the documents is a copy of the complaint Iseley filed in this civil action. (See Exhibit "E" attached)

Counsel for the defendants does not oppose Iseley deleting issues or claims from his complaint. Counsel does, however oppose the reopening of discovery and Iseley filling an Amended Complaint that may add additional defendants, claims and issues. In this response, undersigned counsel is providing Iseley copies of the discovery responses and the complaint he initialed at the deposition. In addition, Iseley may request to inspect the documents defendants made available regarding his request(s) for production of documents. He may do so in writing to the Assistant to the Superintendent at SCI-Huntingdon.

Furthermore, defendants' dispositive motions, pursuant to this Court's March

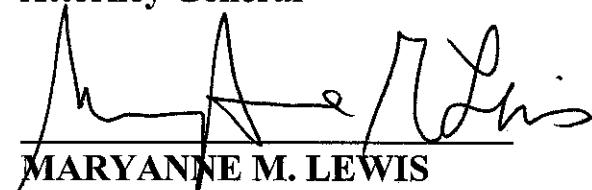
6, 2001 Order, are to be filed on or before June 1, 2001. Iseley has been aware of the scheduling order for over two months. In light of the Court's Order, defendants will be filing their Motion for Summary Judgment and Statement of Material Facts on June 1, 2001. The brief in support of that motion will not be filed until June 15, 2001. Pursuant to the Federal Rules of Civil Procedure, Iseley's response is not due until fifteen days (plus three days for service) after the filing of defendants' brief. In light of the foregoing, Iseley should have ample time and resources to prepare his response.

Wherefore, defendants request that the Court deny Iseley's Motion For an Extension of Time.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


MARYANNE M. LEWIS
Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation

OFFICE OF ATTORNEY GENERAL
15th Fl., Strawberry Square
Harrisburg, PA 17120
(717) 787-9719
FAX: (717) 772-4526
E-MAIL: mlewis@attorneygeneral.gov
DATE: June 1, 2001

EXHIBIT "A"

07/31
original

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**CHARLES ISELEY, :
Plaintiff :
v. : No. 1:00-CV-00577
(Judge Kane)
W. CONWAY BUSHEY, et al., :
Defendants :**

**DEFENDANTS' RESPONSE TO REQUEST
FOR PRODUCTION OF DOCUMENTS**

Defendants hereby respond to plaintiff's request for production of documents. Plaintiff may inspect and photocopy the documents upon written request to the Assistant to the Superintendent at SCI-Coal Township. Plaintiff may photocopy the produced documents at his own expense at the institution rate.

1. The job description of all of the defendants and each of them.

RESPONSE: OBJECTION. Defendants object to this request as privileged and containing information that if released could cause a threat to the security of the institution. Job descriptions contain information unique to each individual's position including the hours that employees work, their shift and schedule rotation, and duties that pertain to specific security measures of numerous work assignment. Without waiving this objection, plaintiff may inspect copies of the specifications for the job classifications of the defendants, which include their basic duties and responsibilities.

2. Any and all policies, directives, memorandums, rules, manuals or instructions concerning the procedures for a prisoner to obtain access/copies of his prison/medical/parole/dental records.

RESPONSE: Department of Corrections Administrative Directive (hereinafter referred to as "DOC-ADM") 003 governs the procedures for a prisoner to obtain access/copies of his prison, medical and dental records. DOC-ADM 003 is found in the Inmate Handbook which is issued to all inmates. In addition, page 18 of the handbook, under the heading "Request Slips," states the procedure for requests of this nature. Title 37 of the Pennsylvania Code, § 61.2, governs the access/copies of parole records. Because these records are considered confidential, no formal policy can be located concerning the procedure for an inmate to obtain access/copies of his parole file. Plaintiff may inspect copies of the DOC Administrative Directives and §61.2 of the Pa Code.

3. The plaintiff's complete prison file to the date of your response.

RESPONSE: OBJECTION. Defendants object to this request as privileged and containing information that if released could cause a threat to the security of the institution, as well as compromise the staff's ability to carry out the rehabilitation of the plaintiff. Included in plaintiff's file are reports of a confidential nature, such as pre-sentence reports, classification and diagnostic information and psychological information. Documents that reflect inmate behavior encourage staff to write freely their opinion concerning the inmate. If released, this would deter staff from writing their opinions in a candid manner. In addition, defendants, object to this request as overbroad and containing information that is irrelevant to the allegations contained in the complaint and unlikely to lead to admissible evidence. Without waiving this objection, plaintiff may inspect copies of the portion of his inmate file that are authorized pursuant to guidelines established under DC-ADM 003.

4. The plaintiff's complete medical records to the date of your response.

RESPONSE: OBJECTION. Defendants object to this request as privileged and containing information that if released could cause a threat to the security of the institution, as well as compromise the staff's ability to carry out the rehabilitation of the plaintiff. In particular, these records contain mental health and psychological information. Without waiving this objection, plaintiff may inspect portions of his medical file, pursuant to guidelines established under DC-ADM 003. Mental health records, pursuant to DC-ADM 003, D(1), may be discussed with treatment staff. These records as noted in the objection and DC-ADM 003 may not be reviewed by the plaintiff.

5. The plaintiff's complete parole file to the date of your response.

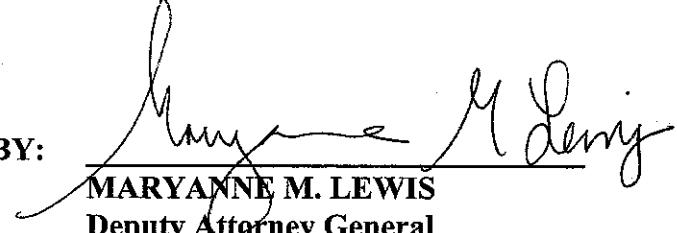
RESPONSE: OBJECTION. Defendants object to this request as privileged and containing information that if released could cause a threat to the security of the institution, as well as compromise the Board's ability to carry out the rehabilitation of the plaintiff. Pursuant to 37 Pa. Code §61.2, “[r]ecords, reports and other written things and information, evaluations, opinions and voice recordings in the Board's custody or possession touching on matters concerning a probationer or parolee are private, confidential and privileged; except that a brief statement of the reasons for actions by the Board granting or refusing a parole will at all reasonable times be open to public inspection in the offices of the Board.” Included in plaintiff's file are reports of a confidential nature, that are frank observations and recommendations gathered by the Department of Corrections and the Board. Documents that reflect inmate behavior encourage staff to write freely their opinion concerning the inmate. If released, this would deter staff from writing their opinions in a candid manner. Without waiving this objection, plaintiff may inspect the Notices of the Board Decision, which are the brief statements of the reasons for the action by the Board refusing his parole.

6. A copy of the civil rights complaint (above-captioned matter).

RESPONSE: Plaintiff's may inspect a copy of his civil rights complaint filed at No.3: CV-00577.

**Objections interposed
on behalf of defendants by:**

BY:


MARYANNE M. LEWIS
Deputy Attorney General
Attorney ID# 83812

Susan J. Forney
Chief Deputy Attorney General
Chief, Litigation Section

Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 787-
FAX: (717) 77204526
DATE: July 31, 2000

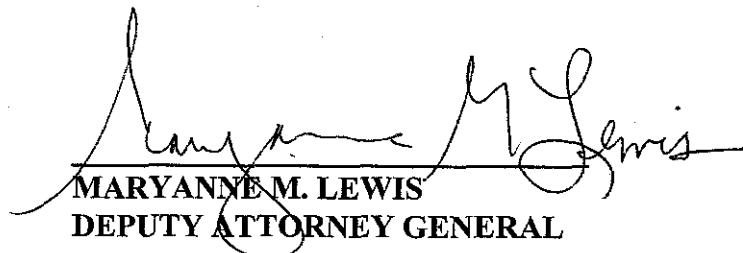
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY, :
:
Plaintiff :
:
v. : No. 1:00-CV-00577
: (Judge Kane)
W. CONWAY BUSHEY, et al., :
:
Defendants :
:

CERTIFICATE OF SERVICE

I, Maryanne M. Lewis, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing Defendants' Response to Request for Production of Documents, by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

Charles Iseley, #AM-9320
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866-1020


MARYANNE M. LEWIS
DEPUTY ATTORNEY GENERAL

DATE: July 31, 2000

EXHIBIT "B"

o 45
2/21

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY, :
Plaintiff :
v. :
No. 1:00-CV-00577
(Judge Kane)
W. CONWAY BUSHEY, et al., :
Defendants :
:

**DEFENDANTS' RESPONSES TO SECOND SET
OF REQUEST FOR PRODUCTION OF DOCUMENTS**

Defendants hereby respond to plaintiff's Second Request for Production of Documents. Plaintiff may inspect and photocopy the documents upon written request to the Assistant to the Superintendent at SCI-Coal Township. Plaintiff may photocopy the produced documents at his own expense at the institution's rate.

1. **OBJECTION.** Defendants object to this request as vague in that defendants do not know what he is referring as to "other reports".

2.-5. **OBJECTION.** Defendants object to this request as overbroad and irrelevant to plaintiff's claims, and unlikely to lead to admissible evidence.

6. **OBJECTION.** Defendants object to this request as containing documents that if released could pose a threat to the security of the institution. Without waiving that privilege, plaintiff may inspect a copy of the documents identified in Interrogatory 13.

7. Counsel for defendants has not identified the documents that will be used at trial. When these documents have been identified, undersigned counsel will supplement this response.

8. Plaintiff may inspect a copy of the DOC Code of Ethics.

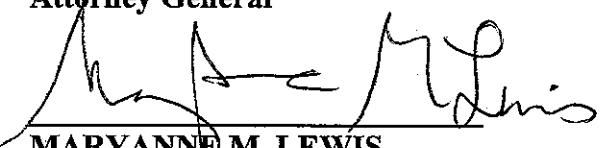
9. **OBJECTION.** Defendants object to this request as irrelevant to plaintiff's claim and unlikely to lead to admissible evidence.

10. **OBJECTION.** Defendants object to this request as privileged and containing information that if released could cause a threat to the security of the institution and compromise the DOC's ability to rehabilitate the plaintiff. Without waiving this objection, DOC parole information is found in the Inmate Handbook, which is issued to all inmates. In addition, criteria specific to an individual inmate's parole is found on his/her green sheet.

11. **OBJECTION.** Defendants object to this request as privileged and containing information that if release could undermine the secure and orderly operation of the Board and compromise the Board and its staff's ability to rehabilitate the plaintiff. In addition, information specific to an individual inmate's parole criteria is found on his/her green sheet.

D. MICHAEL FISHER
Attorney General

BY:


MARYANNE M. LEWIS
Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Office of Attorney General
Litigation Section
15th Fl., Strawberry Square
Harrisburg, PA 17120
(717) 787-9719

DATED: December 21, 2000

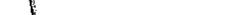
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY, :
Plaintiff :
v. :
W. CONWAY BUSHEY, et al., :
Defendants :
: No. 1:00-CV-00577
: (Judge Kane)

CERTIFICATE OF SERVICE

I, Maryanne M. Lewis, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing **Defendants' Responses to Second Request for Production of Documents**, by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

**Charles Iseley, #AM-9320
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866**


MARYANNE M. LEWIS
Deputy Attorney General

DATE: December 21, 2000

EXHIBIT "C"

CP
12/21

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY, :
: Plaintiff :
: :
v. : : No. 1:00-CV-00577
: : (Judge Kane)
W. CONWAY BUSHEY, et al., :
: Defendants :
:

**RESPONSES TO INTERROGATORIES DIRECTED
TO DEFENDANT HORN**

1. State exactly the reasons why plaintiff was denied a favorable parole recommendation at each relevant parole opportunity.

RESPONSE:

OBJECTION. Defendant Horn objects to this interrogatory as overbroad, burdensome, and irrelevant to plaintiff's claim; further it is unlikely to lead to the discovery of admissible evidence.

By way of further answer, inmates have no right, constitutional or otherwise, to parole. In situations where inmates will be reviewed by the Pennsylvania Board of Probation and Parole, the inmate is first reviewed by the Unit Management team along with the inmate's counselor. If the staff does not recommend parole, the inmate is generally advised of that fact and why.

I have no personal knowledge regarding the reasons why plaintiff was denied a favorable parole recommendation. As Secretary to the Department of Corrections, I am not involved in these decisions.

2. Can a prisoner be denied a favorable parole recommendation for being in the hole in administrative custody?

RESPONSE:

There is no set standard or written list of criteria that the Unit Management Team must follow in determining whether an inmate is recommended for parole. The circumstances surrounding an inmate's placement into the Restricted Housing Unit could certainly be relevant as to whether that inmate is given a parole recommendation.

3. State exactly what the criteria are for a prisoner to obtain a favorable parole recommendation.

RESPONSE:

There is no set standard or written list of criteria and the decision would vary from one inmate to another. The consideration would include but not be limited to the sentence imposed by the Court, the inmate's compliance with his or her prescriptive program plan and with Department Policies, rules and regulations as well as his or her institutional behavior.

4. Why was plaintiff given prescriptive program plans that he could not achieve or had already achieved?

RESPONSE:

I have no personal knowledge of plaintiff's prescriptive program. As Secretary to the Department of Corrections, I am not involved in designing a prisoner's prescriptive program. These programs are designed by the Treatment staff at the institution where a prisoner is incarcerated and not the Secretary.

5. Why is or was beneficial data omitted from plaintiff's prison files?

RESPONSE:

I have no knowledge that beneficial data was omitted from plaintiff's prison files.

6. State exactly what your prisoner rehabilitation success rate has been for the past ten years.

RESPONSE:

OBJECTION. Defendant Horn objects to this interrogatory as overbroad, burdensome, and irrelevant to plaintiff's claim; further it is unlikely to lead to the discovery of admissible evidence.

By way of further answer, this information is not routinely compiled and is not generally available.

7. For each misconduct report that plaintiff received for assault, identify each one where the alleged victim(s) was injured, hospitalized or pressed criminal charges.

RESPONSE:

I have no personal knowledge of plaintiff's misconducts. As Secretary to the Department of Corrections, I do not routinely review individual inmate misconducts.

By way of further answer, this information was already provided and is already known by the plaintiff.

8. Define exactly what good prison adjustment is.

9. Define exactly what poor prison adjustment is.

RESPONSE:

No uniform definition exists within the Department of Corrections that defines good prison adjustment or bad prison adjustment. A number of subjective factors are included in what constitutes good or bad prison adjustment; this includes misconduct status, participation in vocational and educational programs, a prisoner's adherence to a prescriptive program and other factors determined by the Treatment staff at the institution where the inmate is incarcerated.

10. What is the recidivism rate for prisoners released in the past ten years who secured favorable parole recommendations.

RESPONSE:

OBJECTION. Defendant Horn objects to this interrogatory as overbroad, burdensome, and irrelevant to plaintiff's complaint; it is unlikely to lead to the discovery of admissible evidence.

By way of further answer, this information is not routinely compiled and would not be available in any event.

11. State exactly what the rehabilitation goals of the DOC and its agents are for plaintiff.

RESPONSE:

I have no knowledge of what the exact rehabilitation goals are for the plaintiff. As Secretary to the Department of Corrections, I do not personally participate in setting individual prisoner's rehabilitation goals. It is, however, the goal of the Department of Corrections to have inmates involved in a program of self improvement which includes prescriptive programs such as education, vocational training, and other treatment related therapy.

12. Identify any and all defendants whose true identities are unknown, as indicated in the complaint, by providing their true identities.

RESPONSE:

After a review of plaintiff's complaint, I have no idea as to the identities of the unknown defendants.

13. Identify any and all documents which either directly or indirectly substantiate the answer to the complaint including the relevant defenses raised.

RESPONSE:

The following documents were used by counsel in the Answer to the Complaint:

DOC-ADM-801, 803, and 804	Grievance Library - West Fed. Digest
Plaintiff's Prescriptive Program	Grievances - Order of Prescriptive Eyeglass
Misconduct Report No. 122000	Grievance - Inmate Accounting West
Grievance No. MAH-0449-98	Grievance - Guitar Bag
Grievance No. MAH-0457-98	Grievance - Mailroom Money Order
Misconduct Report No. 110205	Grievance - Money Order (\$200)
Grievance No. MAH-002-99	Grievance - Medical Charges
Grievance No. MAH-0011-99	Grievance - Property Inventory Sheet
Grievance No. ROC-1015-98	Grievance - Retaliation
Grievance No. MAH-0462-98	Grievance - Serious asthma attacks; medication
Grievance No. MAH-0480-98	Inmate Request - Account statement for six months for Federal Courts
Grievance No. MAH-0347-99	Grievance - Legal Material
Grievance No. MAH-0035-99	Grievance - Books
Grievance - Harassed by guards	Grievance - Cable Fees
Grievance - Chronic Health	Grievance - Librarian holding money
Grievance - Medical Staff	Grievance - Law library inadequate
Grievance - Magazines	Plaintiff's Notice of Board Decisions
Grievance - Medical Care	(Green Sheets) 11/3/95; 10/3/97; 11/18/97; 2/1/99; and 7/7/00
Grievance - Medical Staff	
Grievance - Radio Purchase	

14. Identify all persons to be called as witnesses at trial in this action indicating with respect to each such person the specific substance of his/her testimony and whether he/she will be called as an expert witness.

RESPONSE:

To date, witnesses other than the named defendants have not been identified by defendants' counsel.

15. What are the DOC's obligations/responsibilities to the P.B.P.P.?

RESPONSE:

The Department of Corrections' responsibilities to the Pennsylvania Board of Probation and Parole are to provide a recommendation concerning an inmate's parole and facilitate the availability of inmates for the Parole Board's interviews.

16. Why does plaintiff's sentencing order state that his consecutive sentence was to begin at the minimum expiration of all his other sentences.

RESPONSE:

I have no personal knowledge what plaintiff's sentencing orders state, as I have never looked at or reviewed his sentence orders. In addition, I would have absolutely no idea of what may have been in the sentencing judge's mind at the time that her or she issued the sentencing order.

17. Explain how after 1998 plaintiff could be serving a 12½ to 25 year sentence when he served the entirety of all his concurrent sentences (five 15 year sentences and a 2 year sentence) at that juncture.

RESPONSE:

OBJECTION. Defendant objects to this request as vague. In addition, defendant Horn has no personal knowledge of the sentence or sentences which the Court imposed upon plaintiff.

18. State exactly what the penalological and/or rehabilitative justifications are for denying plaintiff medical care for being beyond his minimum sentence.

RESPONSE:

I have no personal knowledge of the medical care plaintiff has received or that the plaintiff has been denied medical care. I am not aware that being beyond his minimum sentence has ever been a penalological or rehabilitative basis for denying medical care.

19. State exactly when plaintiff became eligible for prerelease programs.

RESPONSE:

See DC-ADM 805 which sets forth the Department's general policy on Pre-release.

20. Explain exactly what the policies/practices/procedures/regulations are for disciplinary proceedings (including appeals thereof and review of same).

RESPONSE:

See DC-ADM 801.

D. MICHAEL FISHER
Attorney General

BY:


MARYANNE M. LEWIS
Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Office of Attorney General
Litigation Section
15th Fl., Strawberry Square
Harrisburg, PA 17120
(717) 787-9719

DATED: December 21, 2000

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY, :
Plaintiff :
v. : No. 1:00-CV-00577
W. CONWAY BUSHEY, et al. : (Judge Kane)
Defendants :
:

VERIFICATION

I, MARTIN F. HORN, declare under penalty of perjury that the foregoing Responses to Interrogatories Directed to Defendant Horn are true and correct to the best of my knowledge.

DATE

**MARTIN F. HORN, Secretary
Department of Corrections**

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 1:00-CV-00577
	:	(Judge Kane)
W. CONWAY BUSHEY, <u>et al.</u> ,	:	
	:	
Defendants	:	

CERTIFICATE OF SERVICE

I, Maryanne M. Lewis, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing Responses to Interrogatories Directed to Defendant Horn, by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

Charles Iseley, #AM-9320
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866



MARYANNE M. LEWIS
Deputy Attorney General

DATE: December 21, 2000

EXHIBIT "D"

\$150.00

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES ISELEY,
Plaintiff,

v.

W. CORWAY BUSHEY, JANE DOE,
MIKE MOE, ROBERT MEYERS,
TERRY WHITMAN, GREGORY GAERTNER,
SAM MAZZOTTA, SARA CRAIG,
CHARLES MITCHELL, TRESSLER,
WAKEFIELD, MARTIN HORN,
ROBERT BITTER, CAROL DOTTER,
MARTIN DRAGOVICH, K. BRECK,
J. KEVIN KANE, MOYOTNEY,
K. DENTISON, THOMAS CHEENEY,
MARVA CERULLO, RICHARD SPAIDE,
ROBERT YARNELL, SALLY GENARINI,
JAMES VHELL, JAMES CORBACIOV,
THOMAS HORNUNG, BRENDA WILDERSTEIN,
YOUKON, EICHENBERG, FRYZEL,
GAVIT, MAHALLY, FRED FOE,
BIROSAK, HARRY HOE, PEER,
MACKRETH, DRBINSKY,
RBC Corp., AAA Corp., Jason GROW,
Defendants.

FILED

JULY 9 1999

MICHAEL E. KUNZ, Clerk

AMY

Dep. Clerk

99CV-5380

Jury Trial Demanded

CIVIL RIGHTS COMPLAINT

EXHIBIT

Jurisdiction

1. This is a civil rights action authorized pursuant to 42 U.S.C. sections 1981, 1983, 1985(3) and 1986, to redress the deprivation under color of state law, of rights secured by the United States Constitution. The court has jurisdiction under 28 U.S.C. sections 1331 and 1333 and the aforementioned statutory provisions. Plaintiff will further invoke the pendent jurisdiction of the court to hear and decide claims arising under state law. Plaintiff also seeks declaratory relief pursuant to 28 U.S.C. sections 2201 and 2202.

Plaintiff

2. Plaintiff, Charles Isely, is a state prisoner currently imprisoned at Mahanoy state prison and is and was at all times relevant to this complaint a prisoner in the custody of the Pennsylvania Department of Corrections (hereinafter "DOC").

Defendants

3. W. Conway Bushey is the secretary of the Pennsylvania Board of Probation and Parole (hereinafter, PBPP).

4. Jane Doe, true name currently unknown, is a PBPP employee.

5. Mike Moe, true name currently unknown, is a PBPP employee.

6. The above defendants can be reached at Pa. Bd. of Prob. & Parole, P.O. Box 1661, 3101 North Front St., Harrisburg, PA 17105.

7. Robert Meyers is the warden at Rockview state prison (hereinafter "RSP").

8. Terry Whitman is the deputy warden at RSP.

9. Gregory Gaertner is the deputy warden at RSP.

10. Sam Mazzotta is the grievance coordinator at RSP.

11. Sara Craig is a psychologist at RSP.

12. Charles Mitchell is a hearing examiner at RSP.

13. Tessler, first name unknown, is a prison guard of the rank of captain at RSP.

14. Wakefield, first name unknown, is a prison guard of the rank of major at RSP.

15. The address for RSP is SCI-Rockview, Box A, Bellefonte, PA 16823.

16. Defendant Martin Horn is the secretary for the DOC.

17. Robert Bitter is the chief hearing examiner for the DOC.

17. The address for the Pa. Dept. of Cor. is P.O. 597 Camp Hill, PA 17001.

18. Martin Dragerich is the warden at Mahanoy state prison (hereinafter, "MSP").

19. Carole Dotter is the grievance coordinator at MSP.

20. K. Breon is the hearing examiner at MSP.

21. J. Kevin Kane is a hearing examiner at MSP.
22. Novotney, first name unknown, is the deputy warden at MSP.
23. Dennison, first name unknown, is a psychologist at MSP.
24. Thomas Chesney is a unit manager at MSP.
25. Marva Cerullo is the healthcare administrator at MSP.
26. Richard Spade is a unit manager at MSP.
27. Robert Yarnell is a MSP employee.
28. Sally Bannarini is the mailroom supervisor at MSP.
29. James Unell is a MSP employee.
30. James Corbacio is the activities supervisor at MSP.
31. Thomas Hornung is a unit manager at MSP.
32. Brenda Wildenstein is a unit manager at MSP.
33. Yourin, first name unknown is a psychologist supervisor at MSP.
34. Eichenberg, first name unknown, is a prison guard of the rank of Lieutenant at MSP.

36. Gavin, first name unknown, is a prison guard of the rank of Lieutenant at MSP.

37. Mahally, first name unknown, is a prison guard of the rank of Lieutenant at MSP.

38. Fred Toe, true name unknown, is a prison guard of the rank of Lieutenant at MSP.

39. Birozaki, first name unknown, is a prison guard of the rank of sergeant at MSP.

40. Harry Hoe, true name unknown, is a prison guard of the rank of sergeant at MSP.

41. Peek, first name unknown, is a prison guard at MSP.

42. Mackreth, first name unknown, is a prison guard at MSP.

43. Dropinsky, first name unknown, is a prison guard at MSP.

44. ABC Corp, true identity unknown, provides medical services at MSP.

45. AAA Corp, true identity unknown, provides optical and optician services to MSP.

46. Jason Brown is a parole agent at MSP.

47. The address for MSP is SCI-Mahaney, 301 Mon
Ad., Frackville, PA 17932.

48. Each defendant is sued individually and in his/her
official capacity. At all times mentioned herein, each
defendant acted under color of Pennsylvania law.

Facts

49. In the past, plaintiff has filed legal actions against numerous DOC employees at various state prisons including those at Greene, Graterford, Dallas, Camp Hill and Rockview.

50. Plaintiff was transferred from Greene state prison RSP on July 2, 1997, in retaliation for his filing legal act. and was capriciously and arbitrarily kept in the hole for approximately three months in retaliation for his filing legal actions and grievances against prison officials. Plaintiff was wrongfully retained in the hole by defendants Whisman, Gaertner and Meyers.

51. The day after plaintiff was released from the hole, was escorted to defendant Meyers's Office and informed that "they" did not like troublemakers such as plaintiff at RSP and that if plaintiff would refrain from filing legal actions and grievances they would try and arrange for him to be transferred to another prison closer to home and he would not be harassed during the interim.

52. Nonetheless, that was not true as plaintiff was not transferred soon and was retaliated against for filing legal actions and grievances at other prisons.

53. For example, plaintiff must secure a favorable DO's recommendation for parole to make parole. In order to obtain same he must participate in his "prescriptive program plan" (hereinafter, "PPP").

54. Plaintiff's, PPP at RSP consisted of participating in an education program, drug program and stress and anger program as direc

55. However, plaintiff was informed by the education department that there were no programs available for him.

Plaintiff was not permitted to attend the drug program because he was not allowed on the drug program prison block.

56. Moreover, it should be taken into consideration that none of plaintiff's criminal charges were for narcotics no has he ever tested positive for drug use or receive a misconduct or other report for controlled substance or suspicion thereof.

57. Plaintiff was not permitted to attend the stress and anger program (anger control unit) because he was not allowed on that program's prison block.

58. In addition, it should be noted that plaintiff has completed a stress and anger program at another prison

59. Plaintiff notified defendants Mazzotta, Bitner, Horn, Meyers and Whitman regarding the intentional and capricious and arbitrary denial of his PPP but they refused to assist plaintiff in retaliation for his filing legal actions and grievances.

60. On August 26, 1998, plaintiff and two other prisoners were thrown in the hole pending an investigation of the alleged involvement in a fight on August 24, 1998, at 6:00 p.m. of that date. The other two prisoners are Blau

61. They were allegedly identified by numerous other prisoners known as "confidential source informants" who allegedly witnessed them fighting another prisoner who is un

62. Nevertheless, one of the other prisoners was released from the hole because he had an alibi, revoking that the alleged witnesses to the alleged incident were incredible.

63. On August 31, 1998, plaintiff received a misconduct report. The charge was Criminal Conspiracy to Commit a aggravated assault concerning an alleged assault on another prisoner on August 24, 1998, at 12:30 p.m.

64. The other prisoner received ~~the~~ identical charge, ^{an} and an additional charge of Aggravated assault.

65. Plaintiff received the misconduct report at 10:30 and had a hearing regarding same at 11:20 a.m. - less than one hour after receiving the aforesaid relevant report. The hearing examiner was defendant Mitchell.

66. Pursuant to state regulations, state law, and DO policy, plaintiff could not have a hearing in less than twenty-four (24) hours after receipt of the pertinent misconduct report and had a right to be present at the hearing, ~~offer~~ call witnesses, offer documentary evidence, challenge adverse witness credibility, etcetera.

67. Nevertheless, plaintiff was not present at the hearing and was not even made aware of the hearing until days later.

68. Defendant Mitchell intentionally lied in his hearing report stating that plaintiff was present at the hearing when plaintiff was not there.

69. On September 2, 1998, plaintiff had another hearing. Defendant Mitchell was the hearing examiner. Defendant

Mitchell asked plaintiff three questions and had plaintiff escorted out by the prison guards.

70. Plaintiff was then notified by a prison guard that the hearing was continued and plaintiff was taken and thrown back in the hole. Plaintiff did not receive a copy of the decision or reason for the continuance despite requesting same numerous times.

71. On September 3, 1998, plaintiff's hearing continued and defendant Mitchell simply gave plaintiff a copy of the decision and sentence, which was drafted the prior day and prior to any testimony or evidence by plaintiff or his witnesses.

72. When plaintiff pointed this out, defendant Mitchell stated that it did not matter. Plaintiff requested his witnesses and to offer documentary/physical evidence and to have all his objections entered into the record but defendant Mitchell denied all save for the witnesses.

73. Plaintiff was subsequently found guilty and sentenced to ninety (90) days in the hole (actually plaintiff was found guilty and sentenced the prior day) - thirty days beyond the maximum sentence allowed - because of his ra

74. When plaintiff pointed out that there was no evidence to support the charge and that he saw the parole board sit and would have to spend many more years in prison as a result of the bogus charge, defendant Mitchell stated that he did not care because he can just look at a "nigger" and tell he is guilty and that people (i.e., "niggers") such as plaintiff should never be allowed out of prison but should be killed.

75. There was no evidence that plaintiff conspired with anyone to commit aggravated assault.

76. There was no evidence that an assault even occurred as the alleged victim claimed he was not assa and was seen by numerous witnesses after the alleged assi was supposed to have occurred and he had no injuries (the alleged victim was allegedly severely injured).

77. The alleged victim did not receive a misconduct report for lying to an employee.

78. It is believed that defendant Mitchell was one a prison guard who was viciously and brutally raped and sodomized by black prisoners, with a cleaving utensil poss because of his superlative racism.

79. Plaintiff notified defendants Wakefield, Capt. Whitman, Meyers, Bitner, Tressler and Horn but they refused to assist plaintiff or denied his appeals in retaliation for his filing prison grievances and legal actions and because of his race and status as a prisoner.

780. On September 9, 1988, a publication was mailed wrongfully, from plaintiff's mail and plaintiff appealed to defendants Meyers^{Horn} and Bitner who denied same in retaliation for plaintiff's filing prison grievances, legal actions and assertions of racism by DOC employee

81. Plaintiff's retaliatory transfer from Greene prison RSP was a result of defendant Varner's retaliatory actions against plaintiff for filing legal actions and prison grievances

82. In December of 1998 plaintiff was transferred to MSP, in retaliation for filing legal actions and grievances.

CFV83. On December 18, 1998, plaintiff exited his cell to work but was informed by defendant Mackreth "fuckin' lock up right now!" Plaintiff complied immediately.

CFV84. After the entire prison was locked down, at approximately 9:20 p.m., defendant Mackreth had plaintiff's cell door opened and, in violation of DOC policy, entered plaintiff's cell and informed him that he, plaintiff is a "troublemaker" and a "stupid fuckin' asshole" who not have a job tomorrow.

CFV85. Plaintiff was fired from his job the next day.

CFV86. Plaintiff apprised defendant Chesney of the wrongful employment termination but defendant Chesney prevaricated, stating that plaintiff never had a job.

CFV87. It is a fact that plaintiff had worked the whole afternoon on the pertinent date in question. Nonetheless he never received his pay/salary for said work.

CFV88. The denial of the job and pay was in retaliation for plaintiff's filing legal actions and prison grievances.

CFV89. Plaintiff filed a prison grievance to defend Doster regarding the denial of his job and pay but it was denied in retaliation for plaintiff's filing legal actions and prison grievances.

CJ ✓ 90. Defendant Dotter intentionally lied in order to cover up the wrongful retaliatory actions against plaintiff.

CJ ✓ 91. Plaintiff appealed to defendants Dragovich, Bitner, and Horn who denied same in retaliation to plaintiff's filing legal actions and prison grievances.

CJ ✓ 92. On December 12, 1998, plaintiff requested to be permitted to go to the prison commissary, on makeup day, but was denied by defendant Chesney.

CJ ✓ 93. When plaintiff notified defendant Chesney that he had allowed other prisoners to go and that it was very unfair to bar plaintiff, Defendant Chesney replied, "So what! You like filing grievances. You like filing lawsuits. I guarantee you won't be on my block much longer. You're a troublemaker. You should never have been released from the RUV..."

CJ ✓ 94. Plaintiff did not respond and simply exited the office while Chesney continued to rant and rave at plaintiff.

CJ ✓ 95. Plaintiff subsequently received an intentionally false and fabricated misconduct report by defendant Chesney stating that plaintiff used obscene and abusive language and refused an order to leave the office.

96. Plaintiff received the report in retaliation for filing prison grievances and legal actions.

97. On December 16, 1998, plaintiff had a disciplinary hearing before defendant Bresn concerning the above-mentioned relevant false and retaliatory misconduct report.

98. However, defendant Bresn refused to consider plaintiff's defenses and refused to allow plaintiff to offer any documentary or exculpatory evidence and refused to take into consideration plaintiff's written and oral versions and refused plaintiff's witnesses for false and retaliatory purposes and reasons.

99. Defendant Bresn was intentionally biased against plaintiff and made illogical rulings supported by ~~no~~ evidence and found plaintiff guilty of refusing to obey an order in retaliation for plaintiff's filing legal actions and grievances.

100. There was insufficient evidence to support the charge because the false report and the biased hearing examiner specifically stated that plaintiff apparently complied with the alleged order (although none was given).

101. Defendant Bresn was so biased that he utterly refused to ascertain any true facts concerning the incident.

102. While plaintiff was waiting outside for the verdict he heard defendant Bresn speaking to someone on the phone requesting orders on what should be done with plaintiff and agreeing to follow the orders given which apparently were to drop one charge and sentence plaintiff to Thirty (30) days in the hole. Plaintiff was then brought back into the hearing room and sentenced to Thirty days in the for refusing to obey an order.

103. Clearly, plaintiff was set up. Plaintiff does not know the identity of the person defendant Bresca spoke on the phone to.

104. Plaintiff appealed to defendants Cervillo, Yarn Spade, Dragovich, Bitner and Horn who denied same in retaliation for plaintiff's filing legal actions and prison grievances and because of his status as a prisoner.

C I ✓ 105. While plaintiff was in the hole he was denied shaves, showers, recreation and harassed by defendants Flyzel and Eichenberg who threatened plaintiff with physical harm and death in retaliation for his filing grievances and legal actions.

C I ✓ 106. Defendant Eichenberg often kicked plaintiff's cell door and threatened to kill him in retaliation for his filing lawsuits.

C I ✓ 107. Plaintiff's cell light was used as a psychological weapon by being kept on from approximately 6:00 p.m. to 11:00 (and 24 hrs. a day at times) in order to mentally, emotionally and psychologically damage plaintiff via disrupted sleep patterns and sleep deprivation which adversely affected plaintiff with same, decreasing his mental psychological and emotional awareness and acuity.

C I ✓ 108. Plaintiff notified defendants Dotter, Dragovich, Bitner, and Horn but they condoned and sanctioned the actions against plaintiff in retaliation for his filing legal actions and grievances.

109. Plaintiff, because of his Islamic beliefs, does not eat pork.

110. While at MSP, plaintiff is not permitted to receive the alternative main course (non-animal protein substitute) in lieu of the normal main course when pork is served.

111. Plaintiff informed defendants Yarnell, Dotter, Dragovich, Bitner and Horn via grievance and appeals thereof but they refused to assist plaintiff in retaliation for his filing legal actions and grievances.

112. In essence, the defendants are punishing plaintiff for his Islamic beliefs and rewarding others for their beliefs (i.e., vegetarians).

113. At other state prisons, such as Rockview, Hunting et cetera, plaintiff is permitted to have a substitute when pork is served.

114. Pursuant to WOC policy such a format is followed at other prisons but not at MSP.

115. In January of 1999, plaintiff was placed on grievance restriction by defendant Dragovich in retaliation for filing grievances. The January 8, 1999, grievance restriction was condoned and sanctioned by defendants Horn and Bitner in retaliation for plaintiff filing legal actions and grievances.

116 On January 17, 1988, Defendant Denissen appeared before plaintiff's prison cell gate in the hole and stated to plaintiff that plaintiff had to sign a paper, a psychiatric consent form, to be evaluated for parole.

117 Plaintiff apprised defendant Denissen that he never had to sign anything before to be seen by the parole board but defendant Denissen stated to plaintiff that it is a new policy and must be signed pursuant to the "Totin Litigation".

118 Based on the data, which was later to be found completely false, plaintiff placed his signature on the document ~~so he would see the parole board.~~

119. Plaintiff ^{later} ascertained that defendant Denissen was not employed by the PDCP and that he did not have to sign any consent form to be evaluated for parole.

120. Plaintiff informed defendants Grow and Youron and the latter immediately informed the PDCP that plaintiff refused to sign the form to punish plaintiff for exercising his rights.

121. Defendant Youron did not state the reason why plaintiff did not wish consent because of his covering up for defendant Denissen's intentional misrepresentation of himself to trick plaintiff into giving consent.

122. Plaintiff filed a prison grievance and defendants Dotter and Youron responded via memorandum, stating that defendant did nothing wrong and that plaintiff was informed of numerous things by defendant Youron in person either, in truth, defendant Youron only told plaintiff one thing.

123 Plaintiff informed defendants Drayorich, Bitner and Horn via appeal but they denied same in retaliation for plaintiff's filing grievances and legal actions.

124 Defendants Dotter and Vanett lied in order to retaliate against plaintiff for filing grievances and legal actions.

125 Defendant Dennis allegedly performed, approximately in December of 1997, a psychological evaluation of plaintiff in less than three minutes and did not inform plaintiff that such an evaluation was being performed or identify himself as a psychologist.

126 Approximately in November of 1997, Defendant Craig allegedly performed a psychological evaluation of plaintiff. However, the only thing plaintiff ever spoke to her about concern his PPO and his transfer, pending, to another prison.

127 The relevant psychological evaluations were deliberately inadequately administered and intentionally included false or misleading information and were purposefully created to be detrimental to plaintiff in order to deny and squash any opportunity for plaintiff to make parole in retaliation for filing prison grievances and legal actions.

128. Defendant Bushey intentionally permits his agents, in violation of law, to capriciously and arbitrarily deny parole by relying on psychological and DOC reports which he knows deliberately include inadequate/false data and are capricious and arbitrarily created to adversely affect the opportunity of plaintiff for freedom. Defendant Bushey knowingly condones and sanctions such actions and retaliation against plaintiff for his filing grievances and legal actions.

129. On February 17, 1999, plaintiff was seen for a parole interview by defendants Grow, Doe and Moe.

130. Plaintiff notified them of prison officials' intentional retaliation against him over many years for his filing grievances and legal actions and of their deliberate deletion of beneficial data from his files and intentional addition of adverse data and false data in his prison files to ensure adverse parole recommendations to guarantee parole denial to plaintiff.

131. Defendant Moe specifically notified plaintiff that he was well aware that plaintiff files numerous lawsuits and grievances and has even filed actions against the parole board which was stupid for plaintiff to do because plaintiff should expect retaliation for his actions.

132. Defendant Moe further stated to plaintiff that the only way plaintiff will ever make parole is if he cease filing legal actions and prison grievances.

133. When plaintiff noted that he felt it was unfair to retaliate against him and allow retaliation against him for exercising his rights defendant Moe stated "Well, that's how things are".

134. Plaintiff was subsequently denied parole in retaliation for his filing legal actions and grievances.

135. In February of 1999, plaintiff received two letters in the mail which contained two letters and Islamic literature which was confiscated by defendant Gennarini because of plaintiff's race or beliefs.

136. Defendant Gennarini refused to give plaintiff a reason for the confiscations.

137. On February 25, 1999, defendant ^{Gavin} notified plaintiff in person, while referring to plaintiff as a, *inter alia*, "nigga" and threatening plaintiff with physical injury, that plaintiff's mail was confiscated ^{because} "the muslim nigger stuff" is "gang related material" and that plaintiff is going in the "muslim nigger file".

138. Defendant Gavin further stated that plaintiff would be retaliated against via harassment and false misconduct reports for being a "muslim nigger" if plaintiff continued to ^{complain} ~~complain~~. Plaintiff never received his Islamic literature.

139. Plaintiff contacted defendants Dragovich ^{and} Bitar concerning the aforementioned wrongful confiscation but the sanctioned, condoned and approved of the intentional discriminatory and unlawful confiscation in retaliation for his race, beliefs and filing of grievances and legal action.

140. In January of 1999 plaintiff was released from the ~~in~~ and afterward discovered numerous items were missing from his personal property.

141. The missing property consisted of, *inter alia*, approximately twelve publications that were exhibits in a federal lawsuit in the Western District Court. Plaintiff never received any confiscation forms or reasons as to why his property was confiscated. Plaintiff's case has been seriously hampered by the denial of the publications since they were to be exhibits for appeal purposes in the Third Circuit Court of Appeals and in the Western District Court.

142 Plaintiff contacted defendants Dotter, Dragovich, Bitner and Koen but they refused to assist plaintiff in retaliation for plaintiff's filing grievances and legal action.

143 On May 24, 1999, plaintiff was wrongfully charged \$2.00 (two dollars) for a medical visit concerning a chronic condition.

144. However, pursuant to state regulations and law and DOC policy plaintiff is not to be charged for medical visits for chronic conditions.

145. As a result of the charge, which was improper, plaintiff had to pay an additional \$5.00 surcharge.

146. Plaintiff attempted to be reimbursed for his stolen money and contacted defendants Cerullo, Dotter, Dragovich and Bitner who all denied same in retaliation for plaintiff's filing grievances and legal actions.

147 Defendant ABC Corp. specifically follows a pattern or practice of discriminating against prisoners by refusing to reimburse them for wrongful charges if possible and by charging wrongful fees to prisoners anyway.

148 On February 4, 1999, plaintiff was wrongfully charged \$2.00 (two dollars) for a medical visit regarding a chronic condition.

149. However, pursuant to state regulations and law and DOC policy plaintiff is not to be charged for chronic condition medical visits.

150 Plaintiff attempted to be reimbursed for his stolen money and contacted defendant's Cervillo, Diaz, Dotter and ~~ATT~~^{ABC} Corp. but nothing was done in retaliation for plaintiff's filing grievances and legal actions.

151 Defendant ~~ATT~~^{ABC} Corp. specifically follows a pattern and practice of discriminating against prisoners by refusing to reimburse them for wrongfully charged and by wrongfully charging prisoners for fees they should not be charged for.

152 On February 11, 1999, plaintiff ordered a pair of prescription eyeglasses. On the same date plaintiff dispatched a written communication requesting that the lenses be made photo-gray but defendant Toe refused to alter or cancel the order to deny plaintiff his money.

153 Plaintiff subsequently contacted defendants Bittie Cervillo, Dotter, ATT Corp. and Dragovich who refused to alter or cancel the order or reimburse plaintiff for the glasses he has never received and does not want and their actions are in retaliation for plaintiff's filing grievances and legal actions.

154 Defendant ATT Corp. has a pattern and practice or policy of discrimination by not allowing plaintiff a refund because he is a prisoner but allowing refunds to others.

155 On April 15, 1999, a guitar bag was confiscated from ~~plaintiff~~ plaintiff's mail by prison officials despite the fact that such items are permitted and plaintiff had received prior approval from prison officials to purchase one.

EJ 156 Plaintiff subsequently contacted defendants Doty, Mahally, Novotney, Dragovich and Bitner for the return of his guitar bag but they refused in retaliation for plaintiff's filing grievances and legal actions.

EJ 157 Plaintiff has yet to receive or be reimbursed for his intentionally stolen guitar bag.

158 On January 15, 1999, plaintiff purchased a radio from the prison store.

159 Subsequently, plaintiff received a radio from the prison store which was not what he wanted.

160 Defendant Birovsk, in retaliation for plaintiff's filing prison grievances, then ordered plaintiff to send the radio ~~out~~, at plaintiff's expense, to an outside prison store for a refund despite the fact that plaintiff did not purchase it from that store but from the prison store.

161 On March 19, 1999, defendant Birovsk informed plaintiff that the outside store sent plaintiff a different radio and then ordered plaintiff to mail the radio back to the outside store for a refund, at plaintiff's expense.

162 However, plaintiff refused to sign because he purchased the radio from the prison store and not any outside store, but defendant Birovsk stated that plaintiff would never get his money back if he filed a grievance.

163 Plaintiff refused to sign and further stated that he would file a prison grievance to get his money back.

164. Plaintiff contacted defendant Ditter who refused to assist plaintiff pursuant to the orders and sanctions of defendants Dragovich, Bitner and Horn in retaliation for plaintiff's filing legal actions and grievances.

165. Plaintiff has yet to receive his money back for the radio.

OE ✓ 166. On August 27, 1999, plaintiff's cell was searched and his legal material was read by defendant Dropinsky, who then ordered plaintiff to throw all of his legal material in the trash save for one folder because plaintiff would be going to trial soon for a federal lawsuit against numerous DOC employees.

CJ ✓ 167. When plaintiff refused and attempted, pursuant to DOC policy to speak to a superior officer, defendant Dropinsky became abusive and aggressive, stated that plaintiff would not see anyone and referred to plaintiff as a "nigger" and physically pushed plaintiff, clad only a towel and shower shoes, back into the cell causing him to sit and fall backward, hitting his head on the steel table and his shoulder on the floor. Defendant Dropinsky slammed the cell door closed. This occurred at 18:30.

CJ ✓ 168. Plaintiff informed defendant Hoe, via cell intercom, of the retaliatory and racially motivated assault on his person but was told by defendant Hoe "So what" in retaliation for his filing grievances and legal actions. 6

CJ ✓ 169. Subsequently, plaintiff again attempted to speak to a superior officer by notifying defendant Hoe via cell intercom but was informed by defendant Hoe that he got what he deserved and was locked in his cell pursuant to defendant Hoe's orders.

170. Defendant Dragovitsky would then periodically come to plaintiff's cell door and shout and threaten him with death and refer to plaintiff as a "nigger", among other things, and told plaintiff he would not make parole.

171. Subsequently, plaintiff was thrown in the hole and received a false and conspiratorially planned misconduct report in retaliation for plaintiff's filing a legal action against prison officials. Specifically civil action number 96-1693 which was filed in the federal western district court of Pennsylvania and was set for trial on September 20, 1999.

172. On August 30, 1999, plaintiff had a hearing before defendant Kane who refused to even read plaintiff's written version form and stated that plaintiff should not have bothered writing one because his officers do not lie. Defendant Kane refused to comply with state regulations, DOC policy and state law because of plaintiff's status as a prisoner, black man and muslim. Plaintiff was found guilty and sentenced to 60 days in

173. Defendant Kane has a long and well known bias against the above and of violating prisoners' rights. It is believed that the innate bias stems from the killing of his father by a black prisoner who was a muslim.

174. Plaintiff appealed the decision to defendants ^{Dragovitsky,} Corbacić, Wildenstein, Hornung and Bitner but they refused to address plaintiff's issues of retaliation for plaintiff's filing grievances and legal actions and because of his status as a prisoner.

175. On August 31, 1999, plaintiff ~~had~~ found out that a 20 percentage of his personal property was missing, including almost all of his legal material.

176 Plaintiff subsequently contacted, in person, defendants Birocas and Peck and contacted, via written communication, defendants Moretney, Dragovich, Bitner, Dotter and Mahally concerning his missing property but nothing has been done in retaliation for his filing prison grievances and legal actions and because he is a prisoner.

177 One box of missing legal material contained all of plaintiff's trial documents concerning his then upcoming federal trial scheduled on September 20, 1999. The denial of the legal material barred plaintiff from adequately representing himself in trial since he had none of the photocopies of documents (charted and ordered), possible examination and cross-examination questions for each witness, exhibits, notes, reference and cross-references, etc., he required. Plaintiff believes that the legal material was intentionally taken by defendant Propinsky in retaliation.

178 Other missing property includes a chess set, numerous bi-magazines (approximately eight which were exhibits in a legal action among other things).

179 Plaintiff has thus far been unable to adequately check his property. To ascertain exactly what is missing as of this date.

180 In all instances concerning plaintiff's property, the pertinent defendants had care, custody and control of same and a duty to hold and/or track plaintiff's property or reimburse him for his losses or return the property to him.

181 In all instances regarding discipline, the relevant defendants had a duty to ensure that plaintiff was not punished capriciously or arbitrarily or because of his race or his belief or his status as a prisoner.

182 In all instance regarding plaintiff's money, the relevant defendants had a duty not to wrongfully charge plaintiff and to reimburse for any wrongful charges.

183. Plaintiff exhausted the available administrative remedies as far as he was permitted or he was allowed to prior to the filing of this complaint.

Legal Claims

184. The facts, acts and conduct of defendants related above disclose a concerted and systematic effort by the defendants and their agents to deprive plaintiff of constitutionally secured rights, including, but not limited to, those enumerated in the succeeding paragraphs.

First Cause of Action

185. The actions of defendants violated plaintiff's secured First Amendment rights guaranteed under the United States Constitution when he was retaliated against for filing legal actions, retaliated against for filing grievances, retaliated against for not giving permission for his psychological records to be disseminated, denied his legal material for trial, denied a pork-free alternative meal, denied his Islamic literature.

Second Cause of Action

186. The actions of defendants violated plaintiff's secured Fourth Amendment rights guaranteed under the United States Constitution when he was denied employment and pay, denied opportunity to obtain a favorable parole recommendation, denied opportunity to obtain parole, denied accurate psychological reports, and denied property and money.

Third Cause of Action

187. The actions of defendants violated plaintiff's secure Eighth Amendment rights guaranteed under the United States Constitution when he was denied accurate psychological records/files and when his cell lights were kept on all night, when he was denied showers and recreation ~~and~~

Fourth Cause of Action

188. The actions of defendants violated plaintiff's secure Fourteenth Amendment rights to procedural due process guaranteed under the United States Constitution when he was denied an opportunity to be heard, had a partial hearing examiner, denied opportunity to offer evidence, denied his personal property, denied his money, denied his employment and pay, and retaliated against for filing legal actions or prison grievances and denied his Islamic literature, and capriciously and arbitrarily denied parole ~~and found guilty~~

Fifth Cause of Action

189. The actions of defendants violated plaintiff's secure Fourteenth Amendment rights to substantive due process guaranteed under the United States Constitution when he was punished because of his race, punished because of his beliefs, he was denied a proper disciplinary proceeding, found guilty with no evidence, denied his personal property and money, retaliated against for filing legal actions or prison grievances and denied his Islamic literature and denied opportunity to make parole and not have inaccurate psychological information in his files

Sixth Cause of Action

190. The actions of defendants violated plaintiff's secured Fourteenth Amendment rights to equal protection guaranteed under the United States Constitution when he was denied the pork-free alternative meals, denied his Islamic literature and punished for his status as a prisoner.

Seventh Cause of Action

191. The actions of defendants violated plaintiff's secured rights guaranteed under the laws of the Commonwealth of Pennsylvania and the court has pendent jurisdiction to hear and adjudicate such claims which are in regard to, but not limited to:

- a) negligence
- b) gross negligence
- c) due process
- d) equal protection
- e) invasion of privacy
- f) fictitious report
- g) theft by unlawful taking or disposition

Equity

192. The plaintiff has no plain, adequate or complete relief at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless the court grants the declaratory and injunctive relief which plaintiff seeks.

Relief

WHEREFORE, plaintiff prays and respectfully requests the court to enter a judgement granting him the following rel.

A. A declaratory judgement that the defendants' acts, policies, and practices herein described and complained of violated plaintiff's rights under the United States Constitution and the Laws of the Commonwealth of Pennsylvania

B. A permanent injunction which:

- 1) bars defendants from retaliating against plaintiff
- 2) allows plaintiff to receive the pork-free alternate meal when pork is served
- 3) allows plaintiff to receive accurate only data in his records/files
- 4) bars defendants and their agents from placing fat data in plaintiff's records/files.

C. Compensatory damages from defendants, and each of them, to plaintiff.

D. Punitive damages from defendants, and each of them to plaintiff.

E. A jury trial on all issues triable by jury.

F. Plaintiff's costs of this action

G. Such other and further relief as the court deems just, proper or equitable.

Respectfully submitted

Date: October 10, 1999

Charles Isely
Charles Isely, AM-93
301 Morea Rd
Frackville, PA 17932

VERIFICATION

I declare, pursuant to 28 USC sec. 1746, that I have read the foregoing complaint and hereby verify under penalty of perjury that the matters asserted therein are true and correct to the best of my knowledge.

Date: October 12, 1999

Charles Isley
Charles Isley

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES ISELEY, :
Plaintiff, :
v. :
W. CONNIE BUSHEY, et al., :
Defendants. :
:

REQUEST FOR LEAVE TO PROCEDE IN PROPER PROTERS

Plaintiff, Charles Iseley, pursuant to 28 U.S.C. sec. 1915,
hereby respectfully requests the court for permission to proceed
in ~~pro~~ proper in this matter for the following reasons:

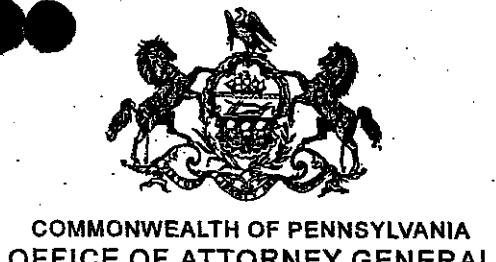
1. Plaintiff has approximately fifty dollars on his prison
account and has been unemployed for nearly twenty years and
in prison for nearly that period of time.
2. The filing fee has been paid.
3. The prison officials refuse to give plaintiff an account
statement covering the past six months unless the court itself
requests it (see attached Exhibit A).
4. Plaintiff requires his funds for personal hygiene items and
medical services purchases, as well as for stationery supplies
and postage costs/fees.

Date: October 22, 1999

Respectfully submitted,

Charles Iseley
Charles Iseley
AM-9320, 301 Morea Rd.
Frackville, PA 17932

EXHIBIT "E"



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

January 26, 2001

15th Floor, Strawberry Sq.
Harrisburg, PA 17120
DIRECT DIAL: (717) 787-9719
FAX: (717) 772-4526

Charles Iseley, #AM-9320
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866

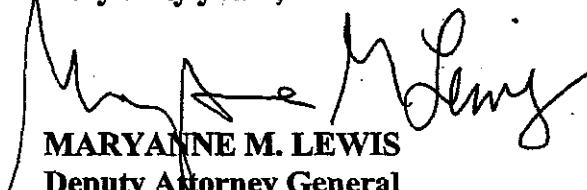
Re: Iseley v. Bushey,
No. 1:00-CV-00577

Dear Mr. Iseley:

Please be advised that I spoke with Kandis Dascani, Assistant to the Superintendent at SCI-Coal Township, concerning your Request(s) For Production of Documents. According to her records, you did not request to inspect the documents produced for your inspection in regard defendants' July 31, 2000 or the December 21, 2000 responses to your request for production of documents.

As noted in both responses, the documents are available for your inspection and photocopying upon written request to the Assistant to the Superintendent at SCI-Coal Township. You may photocopy the produced documents at your own expense at the institution's rate.

Very truly yours,


MARYANNE M. LEWIS
Deputy Attorney General

MML/d

cc: Kandis Dascani, Assistant to the Superintendent



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

April 11, 2001

15th Floor, Strawberry Sq.
Harrisburg, PA 17120
DIRECT DIAL: (717) 787-9719
FAX: (717) 772-4526

Charles Iseley, #AM-9320
SCI-Huntingdon
1100 Pike St.
Huntingdon, PA 16654

Re: Iseley v. Bushey,
No. 1:00-CV-00577

Dear Mr. Iseley:

Please be advised that I spoke with the assistant to the superintendent at SCI-Coal Township. I was informed that eight boxes of property were not mailed to you at SCI-Huntingdon because at the time of your transfer you refused to fill out a cash slip to pay for the postage.

If you wish to have the boxes mailed to you at SCI-Huntingdon, you must send a cash slip to SCI-Coal Township in the amount of \$50.03. This cash slip may be sent directly to Kandis Dascani, Assistant to the Superintendent at SCI-Coal Township, 1 Kelly Drive, Coal Township, PA 17866.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marianne M. Lewis".

MARYANNE M. LEWIS
Deputy Attorney General

MML/ld

bcc: Kandis Dascani
Asst. to the Supt.

EXHIBIT "F"

EXHIBIT "G"

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution At Coal Township
(570) 644-7890
May 11, 2001

SUBJECT: Appeal to Initial Inmate Grievance #0242-01

TO: Charles Isley, AM-9320
SCI Huntingdon

FROM: *Frank D. Gillis*
Frank D. Gillis
Superintendent

RECEIVED
Office of Attorney General
MAY 16 2001

Litigation Section

I am in receipt of your appeal of the Initial response to Inmate Grievance #0242-01. I have reviewed your initial grievance and the response you received. Appropriate staff were contacted in reference to your appeal.

When you were transferred from SCI Coal Township you were permitted to take with you the allowable amount of property by policy.

In order to resolve this issue I am instructing intake to forward your eight (8) boxes of remaining property to the mailroom to be mailed to you at SCI Huntingdon. I also am instructing Inmate Accounts, according to policy, to charge the shipping costs of \$50.03 to your account.

Taking all information above into consideration, I find that this grievance appeal is resolved.

cc: Lt. Gooler
Lt. Smith, SCI Huntingdon
Intake
Mr. Voeckler
Mailroom
Inmate Accounts
DC-15
File

cc: *Mary Ann Lewis*

RECEIVED
SCI Coal Township

01 APR 23 PM 1:58

Re: ~~Grievance Appeal~~
0242-01

Charles Isley
AM-9320, 1100 Pike St
Huntingdon, PA 16651

Frank Billis, supt.
1 Kelley Dr.
Coal Twp., PA 17866

20010419

Billis:

I am appealing the above grievance because:

1. I was not permitted to take property with pursuant to DOC policy. I was not permitted to be present when my property was inventoried (as clearly states in DOC procedure manual: Classification Transfers). You deliberately took all my legal material out of my locker and withheld it in retaliation for my exercising my rights.
2. I was not advised by anyone of anything - I am not at Coal Twp.
3. I filled out cash slips to have my remaining property shipped to the destination prison (Huntingdon) which is easily verified since my property invoice receipt clearly states "UPS" for the remaining property.
4. I wish my property shipped forthwith

cc: Marianne Lewis dag

C. Isley

DC-ADM 804, Inmate Grievance System

Attachment B

DC-804
Part 2COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

0242-01

TO: (Inmate Name & DC No.)	FACILITY	HOUSING LOCATION	GRIEVANCE DATE
Charles Isley, AM-9320	COAL	SCI Huntingdon	3/25/01

The following is a summary of my findings regarding your grievance:

Appropriate staff were contacted in reference to your grievance. You were permitted to take with you the property permitted by policy. You were advised that the remainder of your property would be shipped upon receipt of signed cash slips and the mailing address where you wanted the property to be mailed to.

Upon receipt of the above your property will be mailed out.

cc: Intake
DC-15

Print Name and Title of Grievance Officer	SIGNATURE OF GRIEVANCE OFFICER	DATE
Kandis K. Dascani		
Corrections Superintendent's Assistant		4/9/01

DC-804
Part 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598FOR OFFICIAL USE ONLY
0242-01
GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR <i>Dascani</i>	FACILITY: Coal Twp. / <i>Huntingdon</i>	DATE: <i>20010325</i>
FROM: (INMATE NAME & NUMBER) <i>C. Isley AM-9320</i>	SIGNATURE OF INMATE: <i>C. Isley</i>	
WORK ASSIGNMENT: <i>R/</i>	HOUSING ASSIGNMENT: <i>G-BIK B-1012</i>	

INSTRUCTIONS:

1. Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B any actions you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages.

I was transferred to Huntingdon on 20010321 and on 20010324 my property was inventoried and I was informed that all my property was ~~not~~ not here. I wish to know if the rest of my property has been mailed here or not and, if not, the reason why not.

B. List actions taken and staff you have contacted, before submitting this grievance.

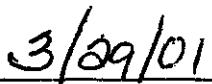
Actions taken: Contacted staff

Staff contacted: Huntingdon prison guards who inventoried property

Your grievance has been received and will be processed in accordance with DC-ADM 804.



Signature of Facility Grievance Coordinator



Date

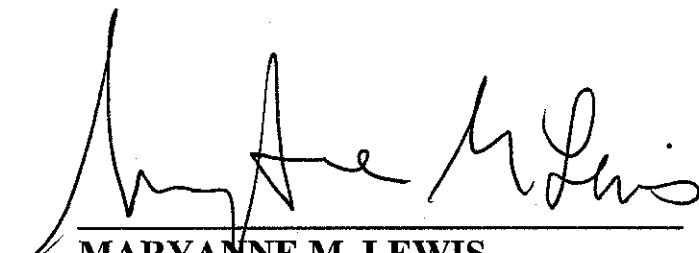
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES ISELEY,	:
	:
	:
Plaintiff	:
	:
	:
v.	:
	:
	:
	No. 1:00-CV-00577
	(Judge Kane)
W. CONWAY BUSHEY, et al.,	:
	:
	:
Defendants	:

CERTIFICATE OF SERVICE

I, Maryanne M. Lewis, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing Defendants' Response to Plaintiff's Motion for Enlargement of Time, by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

Charles Iseley, #AM-9320
SCI-Huntingdon
1100 Pike St.
Huntingdon, PA 16654



MARYANNE M. LEWIS
DEPUTY ATTORNEY GENERAL

DATE: June 1, 2001